

Critical phases and statutes applicable to:

State's Attorney's Office

61 Total Citations

A victim of crime shall be treated by agents of the State with dignity, respect and sensitivity during all phases of the criminal justice process.

Constitution of Maryland, Declaration of Rights, Article 47(a)

Definitions

7 Specific Statutory Provisions

Delinquent Acts

- **Definition of child respondent**

Criminal Procedure Article, § 11-101(a)&(b)

(a) In this title the following words have the meanings indicated.

(b) "Child respondent" means a person who:

- (1) in a petition filed in juvenile court, is alleged to have committed a delinquent act; or
- (2) has committed a delinquent act.

Domestic Violence

- **Definition of victim as it relates to domestic violence**

Family Law Article, § 4-513

In this Part III of this subtitle, "victim of domestic violence" means an individual who has received deliberate, severe, and demonstrable physical injury, or is in fear of imminent deliberate, severe, and demonstrable physical injury from a current or former spouse, or a current or former cohabitant, as defined in § 4-501 of this subtitle.

Monetary Damages -- Restitution

- **Definition of crime as it relates to restitution**

Criminal Procedure Article, § 11-601(d)

(d) (1) "Crime" means an act committed by a person in the State that is a crime under:

- (i) common law;
- (ii) § 109 of the Code of Public Local Laws of Caroline County;
- (iii) § 4-103 of the Code of Public Local Laws of Carroll County;
- (iv) § 8A-1 of the Code of Public Local Laws of Talbot County; or
- (v) except as provided in paragraph (2) of this subsection, the Annotated Code.

(2) "Crime" does not include a violation of the Transportation Article that is not punishable by a term of confinement.

- **Definition of victim as it relates to restitution**

Criminal Procedure Article, § 11-601(j)

(j) "Victim" means:

- (1) a person who suffers personal injury or property damage or loss as a direct result of a crime or delinquent act; or
- (2) if the person is deceased, the personal representative of the estate of the person.

Definitions

Monetary Damages -- Restitution

- ***Definition of victim and victim's representative as it relates to restitution***

Criminal Procedure Article, § 11-621(d)&(e)

(d) "Victim" means a person who suffers personal injury, death, or property loss as a direct result of crime.

(e) "Victim's representative" includes the personal representative of the estate of a deceased victim and a beneficiary under a wrongful death action.

Sexual Assault/Prohibited Exposure

- ***Definition of victim as it relates to HIV exposure/testing***

Criminal Procedure Article, § 11-107(f) & (g)

(f) (1) "Victim" means the victim of a prohibited exposure.

(2) "Victim" includes:

(i) a law enforcement officer who is exposed to HIV while acting in the performance of duty; and

(ii) a paid or volunteer firefighter, an emergency medical technician, or rescue squad member who is exposed to HIV while acting in the performance of duty.

(iii) a forensic scientist, working under the direction of a law enforcement agency, who is exposed to HIV while acting in the performance of duty

(g) "Victim's representative" means:

(1) the parent of a victim who is a minor;

(2) the legal guardian of a victim; or

(3) the person authorized to give consent for the victim under § 5-605 of the Health-General Article.

Victim's Representative

- ***Definition of victim's representative as it relates to victim impact statement***

Criminal Procedure Article, § 11-401

In this subtitle, "victim's representative" means:

(1) a member of the victim's immediate family; or

(2) another family member, the personal representative, or guardian of the victim if the victim is:

(i) deceased;

(ii) under a mental, physical, or legal disability; or

(iii) otherwise unable to provide the required information.

The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

38 Specific Statutory Provisions

Be Heard

- ***Prior notice of right to submit Victim Impact Statement***

Criminal Procedure Article, § 11-104(e)(1)

- (e) (1) The prosecuting attorney shall send a victim or victim's representative prior notice of each court proceeding in the case, of the terms of any plea agreement, and of the right of the victim or victim's representative to submit a victim impact statement to the court under § 11-402 of this title if:
- (i) prior notice is practicable; and
 - (ii) the victim or victim's representative has filed a notification request form under subsection (d) of this section.

Be Heard - Delinquent Acts

- ***Victim Impact Statement - Transfer/waiver hearing***

Criminal Procedure Article, § 11-402(c)

- (c) (1) The prosecuting attorney shall notify a victim who has filed a notification request form under § 11-104 of this title of the victim's right to submit a victim impact statement to the court in a transfer hearing under § 4-202 of this article or a waiver hearing under § 3-8A-06 of the Courts Article.
- (2) This subsection does not preclude a victim who has not filed a notification request form under § 11-104 of this title from submitting a victim impact statement to the court.
- (3) The court may consider a victim impact statement in determining whether to transfer jurisdiction under § 4-202 of this article or waive jurisdiction under § 3-8A-06 of the Courts Article.

Be Informed

- ***Terms of plea agreement, judicial action, proceedings***

Criminal Procedure Article, § 11-104(e)(1)

- (e) (1) The prosecuting attorney shall send a victim or victim's representative prior notice of each court proceeding in the case, of the terms of any plea agreement, and of the right of the victim or victim's representative to submit a victim impact statement to the court under § 11-402 of this title if:
- (i) prior notice is practicable; and
 - (ii) the victim or victim's representative has filed a notification request form under subsection (d) of this section.

Fair Treatment

- ***Guidelines - Definition of victim as it relates to fair treatment***

Criminal Procedure Article, § 11-1001(e)

- (e) "Victim" means a person who suffers direct or threatened physical, emotional, or financial harm as a result of a crime.

The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

Fair Treatment

- ***Guidelines - Information as to right of fair treatment***

Criminal Procedure Article, § 11-1002(a)

- (a) The appropriate criminal justice unit should inform a victim of a crime, a victim's representative, or a witness of the guidelines listed in subsection (b) of this section.

- ***Guidelines - Dignity, sensitivity and respect***

Criminal Procedure Article, § 11-1002(b)(1)

- (b) A victim of a crime, victim's representative, or witness:
 - (1) should be treated with dignity, respect, courtesy, and sensitivity.

Health, Safety and Protection

- ***Guidelines - Notice of protection available and request protection***

Criminal Procedure Article, § 11-1002(b)(4)

- (b) A victim of a crime, victim's representative, or witness:
 - (4) should be told of the protection available, and, on request, be protected by a criminal justice unit, to the extent reasonable, practicable, and, in the unit's discretion, necessary, from harm or threats of harm arising out of the crime victim's or witness's cooperation with law enforcement and prosecution efforts.

- ***Guidelines - Separate waiting area***

Criminal Procedure Article, § 11-1002(b)(5)

- (b) A victim of a crime, victim's representative, or witness:
 - (5) during each phase of the investigative or court proceedings, should be provided, to the extent practicable, with a waiting area that is separate from a suspect and the family and friends of a suspect.

- ***Purpose of Victim Witness Relocation Fund***

Criminal Procedure Article, § 11-904

- (a) Money appropriated to the Program shall be used:
 - (1) to protect victims and witnesses and the families of victims and witnesses;
 - (2) to relocate victims and witnesses to protect them or to facilitate their participation in court proceedings; and
 - (3) to pay the costs of carrying out the Program.
- (b) To the extent possible, the Program shall be used to maximize the use of federal matching funds or programs.
- (c) Expenditures under this section shall be made in accordance with the State budget.

The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

Health, Safety and Protection - Delinquent Acts

- ***Guidelines - Separate waiting area***

Criminal Procedure Article, § 11-1003(b)(3)

- (b) A victim of a delinquent act, victim's representative, or witness:
 - (3) during any phase of the investigative or court proceedings, should be provided, to the extent practicable, with a waiting area that is separate from a child respondent and the family and friends of the child respondent.

Health, Safety and Protection - Sexual Assault/Prohibited Exposure

- ***How victim requests HIV testing of offender***

Criminal Procedure Article, § 11-110

In addition to testing allowed under § 11-112 of this subtitle, the court may order a person charged with a prohibited exposure to give a blood sample to be tested for the presence of HIV if:

- (1) the person is charged with a prohibited exposure within 1 year after the prohibited exposure occurred;
- (2) a victim or victim's representative requests the testing in writing to the State's Attorney in the county where the prohibited exposure occurred; and
- (3) the court finds probable cause to believe that a prohibited exposure occurred.

- ***Court may order offender to provide blood sample for HIV testing***

Criminal Procedure Article, § 11-112

- (a) Within 10 days of a written request of a victim or victim's representative to the State's Attorney in the county where a prohibited exposure occurred, the court shall order a test of a blood sample for HIV and any other identified causative agent of AIDS.
- (b) The blood sample shall be given by:
 - (1) a person who has been convicted of a crime that includes a prohibited exposure;
 - (2) a person who has been granted probation before judgment under § 6-220 of this article in a case involving a prohibited exposure; or
 - (3) a child respondent who has been found to have committed a delinquent act that includes a prohibited exposure.
- (c) The written request shall be filed by the State's Attorney with the court and sealed by the court.

- ***Victim request for HIV testing***

Criminal Procedure Article, § 11-113(a)(1)

- (a) (1) After conviction or a finding of a prohibited exposure, a finding of probable cause under § 11-110(3) of this subtitle, or a granting of probation before judgment under § 11-112 of this subtitle, the State's Attorney shall within 3 days notify the local health officer of the written request by the victim or victim's representative for testing.

The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

Monetary Damages -- General

- ***Guidelines - Information about services (financial assistance, CICB, etc.)***

Criminal Procedure Article, § 11-1002(b)(6)

(b) A victim of a crime, victim's representative, or witness:

- (6) should be told by the appropriate criminal justice unit of financial assistance, criminal injuries compensation, and any other social services available to the victim of a crime or victim's representative and receive help or information on how to apply for services.

Monetary Damages -- General - Delinquent Acts

- ***Guidelines - Information about services (financial assistance, CICB, etc.)***

Criminal Procedure Article, § 11-1003(b)(4)

(b) A victim of a delinquent act, victim's representative, or witness:

- (4) should be told by the appropriate juvenile services unit of financial help, criminal injuries compensation, and any other social services available to the victim and receive help or information on how to apply for services.

Monetary Damages -- Restitution

- ***Guidelines - Restitution***

Criminal Procedure Article, § 11-1002(b)(12)

(b) A victim of a crime, victim's representative, or witness:

- (12) should be told, in appropriate cases, by the State's Attorney of the right to request restitution and, on request, should be helped to prepare the request and should be given advice as to the collection of the payment of any restitution awarded.

- ***Advising victim of right to request restitution***

Criminal Procedure Article, § 11-104(c)(2)(i)

- (c) (2) If the prosecuting attorney files a petition alleging that a child is delinquent for committing an act that could only be tried in the circuit court if committed by an adult, the prosecuting attorney shall:
- (i) inform the victim or victim's representative of the right to request restitution under § 11-606 of this title.

- ***Advising victim of right to request restitution; collecting awarded restitution***

Criminal Procedure Article, § 11-614(a)

(a) If practicable, the State's Attorney should:

- (1) notify an eligible victim of the victim's right to request restitution; and
- (2) help the victim to prepare the request and advise the victim as to the steps for collecting restitution that is awarded.

The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

Monetary Damages -- Restitution - Delinquent Acts

- ***Guidelines - Restitution***

Criminal Procedure Article, § 11-1003(b)(7)

(b) A victim of a delinquent act, victim's representative, or witness:

- (7) should be told, in appropriate cases, by the State's Attorney of the right to request restitution and, on request, should be helped to prepare the request and should be given advice as to the collection of the payment of any restitution awarded.

Notification

- ***Guidelines - notice of hearings, pleas, etc.***

Criminal Procedure Article, § 11-1002(b)(10)

(b) A victim of a crime, victim's representative, or witness:

- (10) for a crime of violence, on written request, should be kept informed by pretrial release personnel, the State's Attorney, or the Attorney General, as appropriate, of each proceeding that affects the crime victim's interest, including:
- (i) bail hearing;
 - (ii) dismissal;
 - (iii) nolle prosequi;
 - (iv) setting of charges;
 - (v) trial; and
 - (vi) disposition.

- ***Guidelines - advanced notice of hearings***

Criminal Procedure Article, § 11-1002(b)(3)

(b) A victim of a crime, victim's representative, or witness:

- (3) should be notified in advance of dates and times of trial court proceedings in the case and, on written request, of postsentencing proceedings, and be notified if the court proceedings to which the victim of a crime, victim's representative, or witness has been subpoenaed will not proceed as scheduled.

- ***Guidelines - Status of arrest/close of case***

Criminal Procedure Article, § 11-1002(b)(8)&(c)

(b) A victim of a crime, victim's representative, or witness:

- (8) on written request, should be kept reasonably informed by the police or the State's Attorney of the arrest of a suspect and closing of the case, and should be told which office to contact for information about the case.
- (c) (1) The Department shall make the guidelines in subsection (b) of this section available to the units involved with carrying out the guidelines.
- (2) To the extent feasible, the guidelines in subsection (b) of this section shall be printed by Maryland Correctional Enterprises.

- ***Providing State's witnesses with guidelines***

Criminal Procedure Article, § 11-104(c)(3)

- (c) (3) For cases described under this subsection, the prosecuting attorney may provide a State's witness in the case with the guidelines for victims, victims' representatives, and witnesses available under §§ 11-1001 through 11-1004 of this title.

The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

Notification

- ***Notification request form - Prior notice of court proceedings***

Criminal Procedure Article, § 11-104(e)(1)

- (e) (1) The prosecuting attorney shall send a victim or victim's representative prior notice of each court proceeding in the case, of the terms of any plea agreement, and of the right of the victim or victim's representative to submit a victim impact statement to the court under § 11-402 of this title if:
 - (i) prior notice is practicable; and
 - (ii) the victim or victim's representative has filed a notification request form under subsection (d) of this section.

- ***Notification of prior court proceedings - Prior notice not practicable***

Criminal Procedure Article, § 11-104(e)(3)

- (e) (3) As soon after a proceeding as practicable, the prosecuting attorney shall tell the victim or victim's representative of the terms of any plea agreement, judicial action, and proceeding that affects the interests of the victim or victim's representative, including a bail hearing, change in the defendant's pretrial release order, dismissal, nolle prosequi, setting of charges, trial, disposition, and postsentencing court proceeding if:
 - (i) the victim or victim's representative has filed a notification request form under subsection (d) of this section and prior notice to the victim or victim's representative is not practicable; or
 - (ii) the victim or victim's representative is not present at the proceeding.

- ***Plea agreements - notice to victim***

Maryland Rules 4-243(a)(F)(2)

- (a) (F) (2) The State's Attorney shall give prior notice, if practicable, of the terms of a plea agreement to each victim or victim's representative who has filed a Crime Victim Notification Request form or submitted a request to the State's Attorney pursuant to Code, Criminal Procedure Article, § 11-104.

Notification - Delinquent Acts

- ***Guidelines - Notification of guidelines***

Criminal Procedure Article, § 11-1003(a)

- (a) The appropriate juvenile services unit should tell a victim of a delinquent act, victim's representative, or witness of the guidelines listed in subsection (b) of this section.

- ***Guidelines - advanced notice of juvenile proceedings***

Criminal Procedure Article, § 11-1003(b)(2)

- (b) A victim of a delinquent act, victim's representative, or witness:
 - (2) should be told in advance of dates and times of juvenile court proceedings in the case and should be told if the court proceedings to which the victim, victim's representative, or witness has been summoned will not proceed as scheduled.

The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

Notification - Delinquent Acts

- ***Guidelines - Status of arrest/close of case***

Criminal Procedure Article, § 11-1003(b)(5)

(b) A victim of a delinquent act, victim's representative, or witness:

(5) on written request, should be kept reasonably informed by the police or the State's Attorney of the apprehension of a child respondent and of the closing of the case, and should be told which office to contact for information about the case.

- ***Waiver Hearing - notice to victim***

Courts and Judicial Proceedings Article, § 3-8A-06(c)(1)

(c) (1) Notice of the waiver hearing shall be given to a victim as provided under § 11-104 of the Criminal Procedure Article.

Notification - Sexual Assault/Prohibited Exposure

- ***Receive notification of, and right to be present at, hearing on HIV testing of offender***

Criminal Procedure Article, § 11-111 (a),(b) & (d)

(a) (1) Before ordering a test under § 11-110 of this subtitle and subject to the provisions of subsection (d) of this section, the court shall hold a hearing at which both the victim or victim's representative and the person charged with a prohibited exposure have the right to be present.

(2) The victim or victim's representative and the person charged with a prohibited exposure shall be notified of:

(i) the date, time, and location of the hearing; and

(ii) their right to be present at the hearing.

(b) During the hearing, a court may admit into evidence only affidavits, counter-affidavits, and medical records that:

(1) relate to the material facts of the case; and

(2) support or rebut a finding of probable cause to issue a court order.

(d) Except for good cause, the court shall:

(1) hold the hearing within 30 days of the State's Attorney's presentment of the victim's written request to the court; and

(2) issue an order granting or denying the request within 3 days of the conclusion of the hearing.

Privacy

- ***When victim's address and phone number may be withheld pretrial/prehearing***

Criminal Procedure Article, § 11-205

On request of the State, a victim of or witness to a felony or delinquent act that would be a felony if committed by an adult, or a victim's representative, a judge, State's Attorney, District Court commissioner, intake officer, or law enforcement officer may withhold the address or telephone number of the victim, victim's representative, or witness before the trial or adjudicatory hearing in a juvenile delinquency proceeding, unless a judge determines that good cause has been shown for the release of the information.

The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

Privacy

- ***Limited access to court records in electronic form***

Maryland Rules 16-1008

- (a) (1) Subject to the conditions stated in this Rule, a court record that is kept in electronic form is open to inspection to the same extent that the record would be open to inspection in paper form.
- (2) Subject to the other provisions of this Rule and any other law or any administrative order of the Chief Judge of the Court of Appeals, a custodian, court, or other judicial agency, for the purpose of providing public access to court records in electronic form, is authorized but not required:
- (A) to convert paper court records into electronic court records;
 - (B) to create new electronic records, databases, programs, or computer systems;
 - (C) to provide computer terminals or other equipment for use by the public;
 - (D) to create the ability to inspect or copy court records through remote access; or
 - (E) To convert, supplement, modify, or replace an existing electronic storage or retrieval system.
- (3) (A) Subject to the other provisions of this Rule, a custodian may limit access to court records in electronic form to the manner, form, and program that the electronic system used by the custodian, without modification, is capable of providing. If a custodian, court, or other judicial agency converts paper court records into electronic court records or otherwise creates new electronic records, databases, or computer systems, it shall, to the extent practicable, design those records, databases, or systems to facilitate access to court records that are open to inspection under the Rules in this Chapter.
- (B) (i) Subject to subsection (a)(3)(B)(ii) of this Rule and except for identifying information relating to law enforcement officers, other public officials or employees acting in their official capacity, and expert witnesses, a custodian shall prevent remote access to the name, address, telephone number, date of birth, e-mail address, and place of employment of a victim or nonparty witness in (1) a criminal action, (2) a juvenile delinquency action under Title 3, Subtitle 8A of the Courts Article, (3) an action under Title 4, Subtitle 5 of the Family Law Article (domestic violence), or (4) an action under Title 3, Subtitle 15 of the Courts Article (peace order).
- (ii) A person who files or otherwise causes to be placed in a court record identifying information relating to a witness shall give the custodian written notice whether the identifying information is not subject to remote access under subsection (a)(3)(B)(i) of this Rule. In the absence of written notice, a custodian is not liable for allowing remote access to the information.
- (4) Subject to subsection (a)(3)(B) of this Rule and procedures and conditions established by administrative order of the Chief Judge of the Court of Appeals, a person may view and copy electronic court records that are open to inspection under the Rules in this Chapter:
- (A) At computer terminals that a court or other judicial agency makes available for public use at the court or other judicial agency; or
 - (B) by remote access that the court or other judicial agency makes available through dial-up modem, web site access, or other technology.
- (b) Any electronic access to a database of court records that is provided by a court or other judicial agency and is in effect on October 1, 2004 may continue in effect, subject to review by the Technology Oversight Board for consistency with the Rules in this Chapter. After review, the Board may make or direct any changes that it concludes are necessary to make the electronic access consistent with the Rules in this Chapter.
- (c) (1) A person who desires to obtain electronic access to or information from a database of court records

The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

Privacy

• ***Limited access to court records in electronic form***

(Continued....)

Maryland Rules 16-1008

to which electronic access is not then immediately and automatically available shall submit to the Court Information Office a written application that describes the court records to which access is desired and the proposed method of achieving that access.

- (2) The Court Information Office shall review the application and may consult the Judicial Information Systems. Without undue delay and, unless impracticable, within 30 days after receipt of the application, the Court Information Office shall take one of the following actions:

(A) The Court Information Office shall approve the application if it determines that the application does not request access to court records not subject to inspection under the Rules in this Chapter and will not impose a significant fiscal, personnel, or operational burden on any court or judicial agency. The approval may be conditioned on the applicant's paying or reimbursing the court or agency for any additional expense that may be incurred in implementing the application.

(B) If the Court Information Office is unable to make the findings provided for in subsection

(c) (2) (A), it shall inform the applicant and:

(i) Deny the application;

(ii) Offer to confer with the applicant about amendments to the application that would meet the concerns of the Court Information Office; or

(iii) If the applicant requests, refer the application to the Technology Oversight Board for its review.

(C) If the application is referred to the Technology Oversight Board, the Board shall determine whether approval of the application would be likely to permit access to court records or information not subject to inspection under the Rules in this Chapter, create any undue burden on a court, other judicial agency, or the judicial system as a whole, or create undue disparity in the ability of other courts or judicial agencies to provide equivalent access to court records. In making those determinations, the Board shall consider, to the extent relevant:

(i) whether the data processing system, operational system, electronic filing system, or manual or electronic storage and retrieval system used by or planned for the court or judicial agency that maintains the records can currently provide the access requested in the manner requested and in conformance with Rules 16-1001 through 16-1007, and, if not, what changes or effort would be required to make those systems capable of providing that access;

(ii) any changes to the data processing, operational electronic filing, or storage or retrieval systems used by or planned for other courts or judicial agencies in the State that would be required in order to avoid undue disparity in the ability of those courts or agencies to provide equivalent access to court records maintained by them;

(iii) Any other fiscal, personnel, or operational impact of the proposed program on the court or judicial agency or on the State judicial system as a whole;

(iv) whether there is a substantial possibility that information retrieved through the program may be used for any fraudulent or other unlawful purpose or may result in the dissemination of inaccurate or misleading information concerning court records or individuals who are the subject of court records and, if so, whether there are any safeguards to prevent misuse of disseminated information and the dissemination of inaccurate or misleading information; and

(v) Any other consideration that the Technology Oversight Board finds relevant.

The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

Privacy

- ***Limited access to court records in electronic form***

Maryland Rules 16-1008

(Continued....)

(D) If, upon consideration of the factors set forth in subsection (c)(2)(C) of this Rule, the Technology Oversight Board concludes that the proposal would create (i) an undue fiscal, personnel, or operational burden on a court, other judicial agency, or the judicial system as a whole, or (ii) an undue disparity in the ability of other courts or judicial agencies to provide equivalent access to judicial records, the Board shall inform the Court Information Office and the applicant in writing of its conclusions. The Court Information Office and the applicant may then discuss amendments to the application to meet the concerns of the Board, including changes in the scope or method of the requested access and arrangements to bear directly or reimburse the appropriate agency for any expense that may be incurred in providing the requested access and meeting other conditions that may be attached to approval of the application. The applicant may amend the application to reflect any agreed changes. The application, as amended, shall be submitted to the Technology Oversight Board for further consideration.

Property Return

- ***Guidelines - Right to return of property***

Criminal Procedure Article, § 11-1002(b)(9)

(b) A victim of a crime, victim's representative, or witness:

(9) should be told of the right to have stolen or other property promptly returned and, on written request, should have the property promptly returned by a law enforcement unit when evidentiary requirements for prosecution can be satisfied by other means, unless there is a compelling law enforcement reason for keeping it.

Property Return - Delinquent Acts

- ***Guidelines - Right to return of property***

Criminal Procedure Article, § 11-1003(b)(6)

(b) A victim of a delinquent act, victim's representative, or witness:

(6) should be told of the right to have stolen or other property promptly returned and, on written request, have the property promptly returned by a law enforcement unit when evidentiary requirements for prosecution can be satisfied by other means unless there is a compelling law enforcement reason for keeping it.

Rights of victim in Circuit Court

- ***Cases originating by indictment or information filed in a Circuit Court***

Constitution of Maryland, Declaration of Rights Article 47(b)

(b) In a case originating by indictment or information filed in a circuit court, a victim of crime shall have the right to be informed of the rights established in this Article and, upon request and if practicable, to be notified of, to attend, and to be heard at a criminal justice proceeding, as these rights are implemented and the terms "crime", "criminal justice proceeding", and "victim" are specified by law.

The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

Services

- ***Guidelines - Receive medical treatment, Crisis intervention, etc.***

Criminal Procedure Article, § 11-1002(b)(2)

(b) A victim of a crime, victim's representative, or witness:

- (2) should receive crisis intervention help, if needed, or be told by the appropriate criminal justice unit where crisis intervention help, emergency medical treatment, creditor intercession services, or other social services and counseling may be obtained.

- ***Guidelines - Employer intercession services***

Criminal Procedure Article, § 11-1002(b)(7)

(b) A victim of a crime, victim's representative, or witness:

- (7) should be told of and, on request, should be given employer intercession services, when appropriate, by the State's Attorney's office or other available resource to seek employer cooperation in minimizing an employee's loss of pay or other benefits resulting from participation in the criminal justice process.

In order to preserve and protect a victim's right to justice, each victim of a crime shall have the rights outlined below during critical stages of the criminal justice process

Pre-trial/Pre-hearing

9 Specific Statutory Provisions

Health, Safety and Protection

• **Notification request form - filing with prosecuting attorney**

Criminal Procedure Article, § 11-104(d)(1)&(3)

- (d) (1) A victim or victim's representative may file a completed notification request form with the prosecuting attorney.
- (3) By filing a completed notification request form, a victim or victim's representative complies with Article 47 of the Maryland Declaration of Rights and each provision of the Code that requires a victim or victim's representative to request notice.

Notification

• **Circuit Court Cases - delivery of brochure and notification request form**

Criminal Procedure Article, § 11-104(c)(1)

- (c) (1) Within 10 days after the filing or the unsealing of an indictment or information in circuit court, whichever is later, the prosecuting attorney shall:
- (i) mail or deliver to the victim or victim's representative the pamphlet described in § 11-914(9)(ii) of this title and the notification request for described in § 11-914(10) of this title; and
- (ii) certify to the clerk of the court that the prosecuting attorney has complied with this paragraph or is unable to identify the victim or victim's representative

• **Notification request form - SAO processing/Forwarding to Clerk**

Criminal Procedure Article, § 11-104(d)(2)

- (d) (2) The prosecuting attorney shall send a copy of the completed notification request form to the clerk of the circuit court or juvenile court.

• **Provide information about CICB when violent crime reported**

Criminal Procedure Article, § 11-807

- (a) In this section, "law enforcement unit" means:
- (1) the Department of State Police;
- (2) the Police Department of Baltimore City;
- (3) the police department, bureau, or force of a county;
- (4) the police department, bureau, or force of a municipal corporation;
- (5) the office of the sheriff of a county;
- (6) the office of the State's Attorney for a county;
- (7) the office of the Attorney General; or
- (8) the office of the State Prosecutor.
- (b) When a report of a violent crime is filed with a law enforcement unit, the law enforcement unit shall give to a victim of that violent crime written information that the Board supplies about compensation for victims.
- (c) A failure to comply with this section is not grounds for any civil or criminal action against a law enforcement unit.

Pre-trial/Pre-hearing

Notification

- ***How to request notification of proceedings***

Criminal Procedure Article, § 3-123(b)&(c)

(b) A State's Attorney shall notify a victim or victim's representative of all rights provided under this section.

(c) (1) A victim or victim's representative may request notification under this section by:

- (i) notifying the State's Attorney and the Health Department of the request for notification; or
- (ii) filing a notification request form under § 11-104 of this article.

(2) A request for notification under paragraph (1)(i) of this subsection shall designate:

- (i) the address and telephone number of the victim; or
- (ii) the name, address, and telephone number of a victim's representative.

(3) A victim or victim's representative may, at any time, withdraw a request for notification.

Notification - Defendant Civilly Committed

- ***Notice to victim of escape, recapture, transfer, release or death of defendant***

Criminal Procedure Article, § 3-123(l)

(l) (1) This subsection applies only to a defendant as defined in subsection (a)(2)(ii) or (iii) of this section after the criminal charges against the defendant have been dismissed under § 3-107 or § 3-108 of this subtitle.

(2) If a victim or victim's representative has requested notification in the manner provided under subsection (c) of this section, the Health Department shall promptly notify the victim or the victim's representative in writing if the defendant:

- (i) escapes;
 - (ii) is recaptured;
 - (iii) is transferred to another facility;
 - (iv) is released; or
 - (v) has died.
-

Notification - Delinquent Acts

- ***Delivery of brochure and notification request form***

Criminal Procedure Article, § 11-104(c)(2)(ii)& (iii)

(c) (2) If the prosecuting attorney files a petition alleging that a child is delinquent for committing an act that could only be tried in the circuit court if committed by an adult, the prosecuting attorney shall:

- (ii) mail or deliver to the victim or victim's representative the notification request form described in § 11-914(10) of this title; and
 - (iii) certify to the clerk of the juvenile court that the prosecuting attorney has complied with this paragraph or is unable to identify the victim or victim's representative.
-

Pre-trial/Pre-hearing

Notification - Domestic Violence

- ***Notice of right to request filing of criminal charges***

Family Law Article, § 4-503(a)(2)

(a) A law enforcement officer who responds to a request for help under § 4-502 of this Part I of this subtitle shall give the victim a written notice that:

(2) states that:

- (i) the victim may request that a District Court commissioner file a criminal charging document against the alleged abuser;
 - (ii) if the commissioner declines to charge the alleged abuser, the victim may request that the State's Attorney file a criminal charging document against the alleged abuser;
 - (iii) the victim may file in the District Court or a circuit court or, when neither the office of the clerk of the circuit court nor the Office of the District Court Clerk is open, with a commissioner, a petition under this subtitle; and
 - (iv) the victim may obtain a copy of the incident report, as provided under § 4-503.1 of this Part I of this subtitle.
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Notification - Sexual Assault/Prohibited Exposure

- ***Responsibility for notifying victim of sexual assault crisis programs***

Criminal Procedure Article, § 11-113(c)

(c) The following shall notify a victim of prohibited exposure or the victim's representative of the provisions of Part II of this subtitle:

- (1) a sexual assault crisis program established under § 11-923 of this title when a victim or victim's representative contacts the program;
 - (2) an intake officer who receives a complaint for the alleged prohibited exposure under § 3-8A-10 of the Courts Article; or
 - (3) on the filing of a charging document or delinquency petition for the alleged prohibited exposure:
 - (i) the Department of State Police;
 - (ii) the Police Department of Baltimore City;
 - (iii) the police unit of a county;
 - (iv) the police unit of a municipal corporation;
 - (v) the office of the sheriff of a county;
 - (vi) the office of the State's Attorney of a county;
 - (vii) the office of the Attorney General;
 - (viii) the office of the State Prosecutor;
 - (ix) the Department of Juvenile Services; or
 - (x) the police unit of a bicounty unit or the University of Maryland.
-

Trial/Adjudicatory Hearing*1 Specific Statutory Provision***Be Heard**

- ***Spousal Privilege***

Courts and Judicial Proceedings Article, § 9-106

- (a) The spouse of a person on trial for a crime may not be compelled to testify as an adverse witness unless the charge involves:
- (1) The abuse of a child under 18; or
 - (2) Assault in any degree in which the spouse is a victim if:
 - (i) The person on trial was previously charged with assault in any degree or assault and battery of the spouse;
 - (ii) The spouse was sworn to testify at the previous trial; and
 - (iii) The spouse refused to testify at the previous trial on the basis of the provisions of this section.
- (b) (1) If the spouse of a person on trial for assault in any degree in which the spouse was a victim is sworn to testify at the trial and refuses to testify on the basis of the provisions of this section, the clerk of the court shall make and maintain a record of that refusal, including the name of the spouse refusing to testify.
- (2) When an expungement order is presented to the clerk of the court in a case involving a charge of assault in any degree, the clerk shall check the record to determine whether the defendant's spouse refused to testify on the basis of the provisions of this section.
- (3) If the record shows such refusal, the clerk shall make and maintain a separate record of the refusal, including the defendant's name, the spouse's name, the case file number, a copy of the charging document, and the date of the trial in which the spouse refused to testify.
- (4) The separate record specified under paragraph (3) of this subsection:
- (i) Is not subject to expungement under Title 10, Subtitle 1 of the Criminal Procedure Article; and
 - (ii) Shall be available only to the court, a State's Attorney's office, and an attorney for the defendant.

Sentencing/Disposition*4 Specific Statutory Provisions***Be Heard**

- ***Preparation and submission of victim impact statement***

Criminal Procedure Article, § 11-402(b)

- (b) If the court does not order a presentence investigation or predisposition investigation, the prosecuting attorney or the victim may prepare a victim impact statement to be submitted to the court and the defendant or child respondent in accordance with the Maryland Rules.

- ***Right not to address court***

Criminal Procedure Article, § 11-403(d)(2)

- (d) (2) A person may not attempt to coerce a victim or the victim's representative to address the court at the sentencing or disposition hearing.

- ***Preparation and submission of victim impact statement***

Courts and Judicial Proceedings Article, § 3-8A-06(c)(2)

- (c) (2) (i) A victim may submit a victim impact statement to the court as provided in § 11-402 of the Criminal Procedure Article.
- (ii) This paragraph does not preclude a victim who has not filed a notification request form under § 11-104 of the Criminal Procedure Article from submitting a victim impact statement to the court.
- (iii) The court may consider a victim impact statement in determining whether to waive jurisdiction under this section.

Be Heard - Sexual Assault/Prohibited Exposure

- ***Notification of local health officer of victims' request for HIV testing of offender***

Criminal Procedure Article, § 11-113(a)(1)

- (a) (1) After conviction or a finding of a prohibited exposure, a finding of probable cause under § 11-110(3) of this subtitle, or a granting of probation before judgment under § 11-112 of this subtitle, the State's Attorney shall within 3 days notify the local health officer of the written request by the victim or victim's representative for testing.

Post-conviction/Post-disposition

2 Specific Statutory Provisions

Notification

- ***Notice of subsequent hearings***

Criminal Procedure Article, § 11-503(b)

- (b) Following conviction or adjudication and sentencing or disposition of a defendant or child respondent, the State's Attorney shall notify the victim or victim's representative of a subsequent proceeding in accordance with § 11-104(e) of this title if:
 - (1) before the State's Attorney distributes notification request forms under § 11-104(c) of this title, the victim or victim's representative submitted to the State's Attorney a written request to be notified of subsequent proceedings; or
 - (2) after the State's Attorney distributes notification request forms under § 11-104(c) of this title, the victim or victim's representative submits a notification request form in accordance with § 11-104(d) of this title.

- ***Notice of appeals***

Criminal Procedure Article, § 11-503(c)(1)

- (c) (1) The State's Attorney's office shall:
 - (i) notify the victim or victim's representative of all appeals to the Court of Special Appeals and the Court of Appeals; and
 - (ii) send an information copy of the notification to the office of the Attorney General.